

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS
Title 3. California Code of Regulations
Article 6.1. Administrative Appeals Process

INITIAL STATEMENT OF REASONS

DESCRIPTION OF THE PUBLIC PROBLEM, ADMINISTRATION REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The proposed regulations are intended to (1) further clarify and extend the provisions of due process, (2) allow for the Secretary of California Department of Food and Agriculture (Secretary) to process appeals, and (3) establish a process by which mediation may be conducted.

SPECIFIC PURPOSE AND FACTUAL BASIS

CDFA adopted by reference the National Organic Program standards, specifically Title 7, Code of Federal Regulations (CFR), Section 205. These standards require the State Organic Program to conduct appeals from actions proposed by a Certification Agent, and authorizes the State to adjudicate appeals and provide for mediation.

Section 407 of the Food and Agriculture Code states the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce. Sections 46000 – 46002 state the Secretary shall enforce regulations adopted by the National Organic Program.

Section 401 of the Food and Agricultural Code declares the department shall promote and protect the agricultural industry of the state. Sections 46013.1 and 46016.1 – 45016.5 state the rights of appeal and mediation.

To comply with these sections of the Food and Agricultural Code the Department is proposing to add the following sections to the California Code of Regulations (CCR):

- Section 1391 will outline the appeal process for denial, suspension, or revocation of organic certification.
- Section 1391.1 will specify the process for mediation of the denial, suspension, or revocation of organic certification.

DOCUMENTS RELIED UPON

- Title 7, Code of Federal Regulations, Sections 205.662 and 205.663

ALTERNATIVES

The Department has determined there is no other alternative available. The Department has the statutory and regulatory responsibility as a participant in the National Organic Program to adjudicate these appeals.

ESTIMATED COSTS OR SAVINGS TO PUBLIC AGENCIES OR AFFECTED PRIVATE INDIVIDUALS OR ENTITIES

The Department has initially determined that no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT STATEMENT

The Department has initially determined that the proposed changes in the regulations would result in no significant added costs to small businesses affected by these proposed changes. This is based on the fact that: There will be no charge imposed upon either the certification agent or the operation seeking to use the appeal process. Also, there will be no cost to the certification agent or operation if mediation is by the Department or the County Agricultural Commissioners.

ECONOMIC IMPACT ON AFFECTED BUSINESSES

The Department has initially determined that the proposed regulations would result in no significant costs to private businesses or individuals affected by these proposed regulations. This is based on the fact stated in the "SMALL BUSINESSES IMPACT STATEMENT."